FREDERICK COUNTY BOARD OF APPEALS MEETING MINUTES FOR THURSDAY, August 26, 2010.

Lara Roholt Westdorp, Chair, called to order a meeting of the Frederick County Board of Appeals ("Board") for Thursday, August 26, 2010 at 7:00 p.m. Present were John Clapp, Sean Michalski, and Alan Duke and Carole Jaar Sepe. Ms. Westdorp welcomed Ms. Sepe to the Board. Also present were Michael Chomel, Senior Assistant County Attorney, and Planning Division staff Larry Smith, Zoning Administrator, and Rick Brace, Principal Planner II and Board Secretary.

Official Minutes of the Board of Appeals' meetings are kept on file in the Planning Division.

Ms. Westdorp stated the rules and procedures for the evening and swore in all persons who expected to testify at the meeting.

Approval of Minutes

On a motion from Mr. Clapp, seconded by Mr. Duke, the Board unanimously approved the minutes of June24, 2010. Ms. Westdorp noted the board held no meeting in July as no cases had been filed for that month.

Annual Election of Officers

Ms. Westdorp turned over the meeting to Mr. Brace, Secretary, in order that elections for Board officers might be held. Mr. Brace announced the nominations open for Chair and Mr. Clapp nominated Ms. Westdorp. Mr. Michalski nominated Mr. Clapp, who declined. As there were no other nominations Mr. Brace declared the nominations closed and that Ms. Westdorp was Chair by acclamation. Ms. Westdorp assumed the Chair and opend nominations for Vice – Chair. Mr. Duke nominated Mr. Clapp and, there being no other nominations, the Chair declared Mr. Clapp Vice-Chair by acclamation.

<u>Cases</u>

B-10-07 Joseph and Julianne Dombek

Requesting a special exception to replace a temporary mobelle previously located on site under case B-90-17 to house a caretaker for a family member, located on the south side of Nicholson Road, approx. 500 yards +/- west of MD Rt. 194 (Tax Map 28, Parcel 4), zoned Agricutural.

A motion by Mr. Michalski, seconded by Mr. Duke to deny the variance failed (3:2 Nay- Ms. Westdorp, Mr. Peppe, Sr., Mr. Duke). Mr. Duke moved that the request met the requirements of uniqueness, seconded by Mr. Peppe Sr., which passed (3:2 Nay - Mr. Clapp, Mr. Michalski). Mr. Duke then moved to grant the request, seconded by Mr. Peppe Sr. which passed (3:2 Nay - Mr. Clapp, Mr. Michalski).

B-08-20 Robert and Barbara Craig -Actions per Court Findings Not inconsistent with the Court Findings

Mr. Duke made a motion that the subject property is a minor subdivision, that the provisions of 1-16-236 (K) do not apply as determined by order of the Circuit Court and for the application to move forward as a minor subdivision, seconded by Mr. Clapp.

Mr. Michalski made a motion to amend the motion to include the statement that the Board of Appeals is reversing the decision of the Planning Commission in addition to the as stated motion, seconded by Mr. Clapp.

Mr. Duke agreed to amend the motion.

The Board voted on the amendment to the motion. (4:0:1 Abstain – Ms. Sepe).

Ms. Sepe made a motion to amend the motion requesting removal of the statement related to inapplicability to1-16-236 (K). The motion failed for lack of a second.

The Board voted on the original motion from Mr. Duke including the amendment from Mr. Michalski and unanimously approved the request.

Discussion- B-10-08- Upcoming Case Procedures

The Board discussed the protocol related to two (2) written requests received. The Applicant in the upcoming Special Exception application, B-10-08, Kemptown Substation c/o PATH Allegheny Transmission Company, LLC, requested additional time in order to present their justification statement. The Applicant requested four (4) hours as opposed to the standard (twenty) 20 minutes. A written request was also received from The Citizens Against the Kemptown Electric Substation (CAKES), a group in opposition to the case, requested the granting of an equal amount of time as granted to the Applicant for rebuttal testimony. Staff stated they anticipate like requests from other opposition groups.

On a motion from Mr. Clapp, seconded by Mr. Duke, the Board moved to table the issue and address as a preliminary matter on the date of the hearing when the all parties are present to justify their requests for additional time, (4:1 Nay- Michalski)

The Board has scheduled a special hearing on Wednesday, September 29, 2010 to hear Case 10-08. The hearing will begin at 1:00 p.m. The Board will break at 5:00 p.m. and will resume until 11:00 p.m. or until the meeting is complete.

Being no further business, the meeting was adjourned at 8:12 p.m.

Richard L. Brace Secretary
/s/_
Lara Roholt Westdorp, Chair

Respectfully Submitted,